

REMARKS

Reconsideration of this application, and the rejection of claims 1-8, 10-17, 19-24, 26-28 and 30-31 is respectfully requested. Applicant has attempted to address every objection and ground for rejection in the Office Action dated March 13, 2003 (Paper No. 5) and believes this application is now in condition for allowance.

Applicant acknowledges the indication of allowability of claims 9, 18, 25 and 29 if rewritten in independent form including all of the limitations of the base claims and any intervening claims. The claims are left in dependent form, as the rejections of their base claims are traversed.

Claim 1 has been amended to refer to "outer portions" instead of "radially outer portions" for the sake of consistency. Further comments on this point are included in response to the §112 rejection below.

In the Office Action, the Patent Office objected to the provided photograph figures 12-31 as being inadequate. Applicant submits that the photographs are appropriate in this case because it is the best medium for illustrating the preferred methods of making the invention. Drawings are inadequate compared to the photographs. Specifically, artisans skilled in the art would appreciate the teaching provided in the photographs since the photographs provide a superior illustration of the preferred methods. Accordingly, Applicant requests that the objection to the photographs be withdrawn. With the Examiner's concession on this point, Applicant will file a petition for the use of photographs.

The Patent Office also objected to Figures 4A-6D as failing to be labeled separately. Applicant believes that the Examiner has overlooked the Substitute Drawings filed with the present application in which this informality was corrected. Accordingly, the objections of the drawings are respectfully traversed.

Further, the specification stands objected to because of informalities. Page 10, line 20 is objected to for failing to provide a figure number. By this amendment, a reference to Fig. 7 was inserted. As to the objection of page 30, line 21 for failing to provide a figure number, Fig. 28 was inserted.

Claims 1 and 23 stand rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicant respectfully submits that a “plurality of radially outer portions” particularly pointed out and distinctly claimed the subject matter which Applicant regards as the invention. The claim specifically defines that the “outer portions” define an outer surface of the member and “radially” further defined the outer portions to be disposed from the central portion. Further still, the “plurality of outer portions” was defined in the specification at page 3, lines 4-5 as portions that “define a radially outer surface of the member.” The term “radially” is defined at page 3, line 8-9, as “extend[ing]...from a substantially central portion”. In addition, the term radially outer portions was also specifically used to refer to item 14 in the specification in various instances. For these reasons, one of ordinary skill in the art would have understood the scope of the claimed subject matter encompassed a “plurality of radially outer portions”.

Thus, the rejection is traversed. However, Applicant believes it preferable to use a single term for claim elements and drawing features. In a review of the case, both “radially outer portions” and “outer portions” were inadvertently used for reference to element 14. Applicants submits that either expression is appropriate. For the sake of consistency, “radially outer portion” has been changed to “outer portion” throughout the specification and in claim 1.

Claim 23 has also been amended to depend from claim 22 to provide antecedent basis for “said perforations”. Applicants believe that an objection would have been more appropriate as the claim would have been understood by an artisan.

As to the rejection of claims 1, 7, 8 and 10-13 stand rejected under 35 U.S.C. §102(b) as being anticipated by Kasuga (U.S. Patent No. 6,068,330). Applicant respectfully traverses this rejection.

In the Office Action, the Examiner states:

“[Kasuga has an] axially extending central portion. The ribs 11 radially emanate from the center and extend axially along the central portion. Outer portions are disposed to extend in the axial direction along the length of the central portion and between the ribs 11 in cross section...”

The Kasuga reference, however, does not fairly disclose a metal unitary structural member. Although the Examiner has interpreted the Kasuga structure to be unitary, there is no teaching of a unitary structure in the reference, and the terms used in Kasuga, as well as the state of the manufacturing art strongly contradict the notion of the member 2a being unitary. Kasuga discloses an impact-absorbing member 2a having ribs 11, a center axis and linear portions. The examiner apparently relies on the drawings to

determine that the ribs 11 and “linear” portions are unitary. However, the ribs are said diagonally connect the inner faces of the “linear” portion 2a. In addition “portion”, as used in Kasuga, does not have the same meaning as in the instant application. For example, Kasuga has a linear portion 2a and a bent portion 2b that are separate members joined by connections at the rear end of the linear portion 2a with the front end of the bent portion 2b (Col. 3, lines 29-35). This again shows that “connect” and “portion” in Kasuga indicate separate non unitary structures. (See, Col. 3, lines 43-48). Additionally, nowhere in the reference does Kasuga inherently disclose that the impact-absorbing member is integrally formed into a single, unitary member. Moreover, to the problem avoid wholesale replacement frames, Kasuga prefers “repeatably detachable joint means” (col. 4, lines 35-44). In contrast, claim 1 of the present invention requires, in part, “a metal unitary structural member.” The claimed portions are parts of a unitary whole.

In further traversal of the rejection based on Kasuga, if the Examiner were to continue an interpretation of the member 2a as unitary, such interpretation is rebutted by Kasuga’s failure to describe a method for making such a structure. The present specification, beginning at page 16, describes in detail preferred formation methods because to the Applicant’s knowledge, a method for making the claimed structure was non existent at the time of the invention. This is made clear, in general, by the art of record in the case being filled with multi-piece structures. Withdrawal of the rejections based on this reference is respectfully requested.

Claims 1, 2 and 21 stand rejected under 35 U.S.C. §102(b) as being anticipated by Eichner (U.S. Patent No. 2,454,640), Applicant respectfully traverses this rejection.

In this rejection, the Patent Office stated with respect to the Eichner reference:

“The structure may be extruded from aluminum or any other suitable metal or alloy of light-weight and that the finished product may be the result of a single operation.”

Although the Examiner asserts that the complete structural member is formed in a single operation, Eichner clearly discloses that the members are first extruded from a single operation, and then secured together in a second step. Eichner teaches “longitudinally extending flanges on each of the members, the flanges on one of the members being biased and fitted on one of the flanges of the other member, and means for securing the flanges of one member to the flanges of another member.” (Col. 3, lines 10-15). In one embodiment, securing the flanges of each semi-cylindrical member with rivets forms the complete structural member. (Col. 2, lines 23-31). The complete structure in Eichner is only preserved by fastening the two semi-cylindrical members together. As discussed above, claim 1 of the present invention requires, in part, “a metal unitary structural member”.

The Examiner further rejected claims 3-6 under 35 U.S.C. §103(a) as being unpatentable over Kasuga in view of Rafter (U.S. Patent No. 2,092,472). This rejection is separately traversed.

The Examiner admits that Kasuga does not disclose the “web portions” each including a “plurality of perforations”. The Examiner alleges that Rafter discloses a structural member formed in sheet metal with a plurality of spaced apertures along the

longitudinal centerline thereof, and that it would have been obvious to one of ordinary skill in the art at the time of the invention to provide openings in the rib structure of Kasuga to lower costs. Applicant respectfully traverses this rejection.

For the sake of separately traversing this rejection only, Applicant will treat Kasuga's ribs 11 as unitary. This is done only to show the lack of evidence supporting the obviousness argument made in the office action.

Although Rafter allegedly teaches a plurality of spaced "apertures" 4, the "apertures" 4 are disposed on a exposed flanged sheet and could be accomplished by any number of conventional manufacturing techniques. If it is (incorrectly) assumed that Kasuga teaches the ribs 11 as unitary with the outer portions of the member 2a, Rafter teaches no way whatsoever to form perforations in the internal ribs 11. Until the Examiner can show the capability to form a plurality of perforations on the internal web portions of a metal unitary structural member as claimed, the Examiner has not made a prima facie case of obviousness with respect to claim 3.

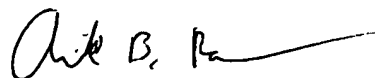
The above comments are incorporated to traverse the rejection of claims 14-16, 20, 22, 26, 27, 31 and 33. Eichner teaches a multi-piece structure, and Rafter teaches only "perforations" in an externally accessible member. This is also a sufficient traversal of the rejection of claim 17, 19, 24, and 28 in view of Rafter, Eichner, and Kasuga. However, the separate patentability of claims not specifically addressed is fully maintained by Applicant.

For the foregoing reasons, applicant believes that this case is in condition for allowance, which is respectfully requested. The examiner should call applicants' attorney if an interview would expedite prosecution.

Respectfully submitted,

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